IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEALNO :433 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16.2.2005 in WP NO : 2642 OF 2005 on the file of the High Court.)

Between:

Sri Sai Teja Mahila Dwacra Group,

Represented by its Treasurer Smt. E. Padmapriya, W/o. Srinivasa Reddy,

Hindu aged 28 years, R/o. Chilakaluripet, Guntur District.

..... Appellant(3rd party)

AND

1 The District Collector, Guntur, Guntur District.
2 The Joint Collector, Guntur, Guntur District.
3 The Revenue Divisional Officer, Narasaraopet, Guntur District.
4 The Mandal Revenue Officer, Chilakaluripeta Mandal, Guntur District.

5 Y. Brahmaiah, S/o. Kotaiah,
CIRCLE NO.27, Chilakaluripeta Town, and Mandal, Guntur District.

.....RESPONDENTS

Counsel for the Appellant: Ravi Shankar Jandhyala

Counsel for the Respondent Nos.1 to 4: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.5: MR.K.SITA RAM

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

The dealership of the 5th respondent in respect of fair price shop was cancelled by the Revenue Divisional Officer through proceedings dated 28.3.2004. Appeal was preferred before the 2nd respondent, which was dismissed on 3.1.2005. Thereafter, revision was filed before the 1st respondent along with an application for stay and no orders were passed on the stay application. Therefore, 5th respondent filed Writ Petition. Learned single judge on hearing the Government Pleader for Civil Supplies came to the conclusion that the dealership of the 5th respondent was cancelled on erroneous grounds. Accordingly, learned single judge directed that during the pendency of the revision, the 5th respondent shall be entitled to continue as a dealer. Aggrieved by the said order of the learned single judge, appellant filed the present appeal.

We have heard the learned counsel for the parties. Needless to state that the primary authority as well as the appellate authority had decided against the 5th respondent-writ petitioner. Dealership of the 5th respondent was cancelled on the ground of non-supply of essential commodities to the new cardholders for the months of November and December, 2003. There is no manner of doubt that in case orders of the primary and appellate authority are bad in law, revisional authority would normally hear and dispose of the revision of the 5th respondent in accordance with law and in case 5th respondent is entitled for any relief, he would grant the same. Since the application for stay is not taken up for consideration, the 5th respondent was aggrieved by the said inaction on the part of the 1st respondent and filed writ petition. In such matters, the course which ought to have been adopted by the learned single judge was to direct the 1st respondent to take up the application for stay for consideration, pending revision. Instead of doing so, learned single judge proceeded to form an opinion that the very cancellation of dealership was erroneous and then directed that pending revision, the 5th respondent be continued as dealer. Such a course ought not to have been adopted by the learned single judge since the matter was pending before the 1st respondent, who alone is competent to take a

decision. Therefore, there was no reason for the learned single judge to go into the merits of the matter. So long as revision is pending, it is not permissible to stay the operation of the orders passed by the two authorities. Therefore, the order passed by the learned single judge is bad in law.

The appeal is accordingly allowed. The order passed by the learned single judge is set aside. The writ petition of the 5th respondent is disposed of with a direction to the 1st respondent to hear and decide the revision petition within a period of three months from the date of writ order from this Court. No costs.

DEVINDER GUPTA,CJ

DATE: 3rd March, 2005

B. SESHASAYANA REDDY,J

Pnb

To

1 The District Collector, Guntur, Guntur District.
2 The Joint Collector, Guntur, Guntur District.
3 The Revenue Divisional Officer, Narasaraopet, Guntur District.
4 The Mandal Revenue Officer, Chilakaluripeta Mandal, Guntur District.

5 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

6 Two C.D. copies